

**CENTRAL MAUI LANDFILL EXPANSION
SP97-390 FY2023 ANNUAL REPORT**



Part 1: Project Summary

Organics Facility

On February 17, 2023 bids were received from Alpha Inc. and Rojac Construction, Inc. Rojac was the lower with a bid of \$2,216,879 and a contract was executed with additives on April 3, 2023 for \$2,287,979.

Land Purchase (59 acres)

On June 3, 2022 Scientific Consultant Services (SCS) asked State Historic Preservation Division (SHPD) for concurrence on the archaeological work for this additional property at CML. On July 25, 2022 SHPD requested an archaeological inventory survey (AIS) since there was inadequate information about this property. On October 26, 2022 SCS submitted their consultation for the AIS; SHPD outlined testing requirements on November 29, 2022. On January 30, 2023 SCS proposed specific AIS field procedures and on February 6, 2023 SHPD approved the approach and requested architectural information on the water distribution network. SCS trenched in June 2023 for the AIS

Customer Drop-Off Area and Entrance Facility Traffic Improvements

R.M. Towill did a final walk-thru of the project on March 24, 2023 and completed their work on May 1, 2023 for a final price of \$348,818. Alpha, Inc. completed their construction work for \$745,476.79.

CML Stormwater Improvements

Tetrtech BAS finalized their report on recommended improvements on June 29, 2023.

Flare Facility Upgrade

Bids to provide a two-zoned flare were received on June 14, 2023 from Product Recovery Management, Inc. (PRM) and Perennial Energy LLC (PEI). After evaluation of the bids PEI was awarded the bid for \$1,074,622.

Request for Proposals for Landfill Gas to Energy

In June 2022 Tetrtech BAS was selected to write a Request for Proposals to select a developer for a landfill gas to energy project at CML to respond to a request for proposals from the Hawaii Electric Company to provide electricity to their grid. Contract price was \$58,920 plus \$62,997 for negotiations with Ameresco, the selected developer. Work on the County proposal to HECO proceeded with Ameresco and Tetrtech.

Comprehensive EIS for District Boundary Amendment

A-Mehr, Inc. was contracted for \$247,650 and issued a Notice to Proceed on February 23, 2023 to provide engineering support for the planning and permitting services needed for the district boundary amendment to be provided by Munekiyo Hiraga, Inc. Mapping of the proposed area was provided by R.T. Tanaka for \$34,424.

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Part 2: Project Compliance

Condition 1: That the Land Use Commission Special Permit shall be valid until October 31, 2028, subject to further time extensions by the Land Use Commission upon a timely request for extension filed at least one-hundred twenty (120) days prior to its expiration. The appropriate Commission shall make a recommendation to the Land Use Commission and may require a public hearing on the time extension.

Report: The request for time extension was made in February 2018 as part of the application for landfill diversion activities and boundary changes. The request, for the State SP to run concurrently with the County Special Use Permit which expires on October 31, 2028, was heard by Maui Planning Commission on December 10, 2019. CUP 0008/0003 was issued on February 6, 2020 with expiration on October 31, 2028. The State Land Use Commission heard the matter on August 13, 2020, and deleted former Condition No. 6 concerning achieved development requirements and added new Conditions No. 18 through No. 23. The County requested reconsideration of Condition No. 23 at a hearing on September 24, 2020 which was dismissed due to a timeliness issue. On October 8, 2020 the matter was heard again by Land Use Commission correcting a LUC staff error in acreage applicable to the District Boundary Amendment requirement from 22 acres of IAL to 95.659 acres of the total permitted area of the CML.

Condition 2: That the conditions of this State Land Use Commission Special Use Permit shall be enforced pursuant to Sections 205-12 and 205-13, Hawaii Revised Statutes. Failure to comply with one or more of the conditions herein shall result in a notice of violation issued by the appropriate enforcement agency, notifying the permit holder of the violation and providing the permit holder no more than sixty (60) days to cure the violation. If the permit holder fails to cure the violation within sixty (60) days of said notice, the appropriate enforcement agency shall issue an order which may require one or more of the following: that the violative activity cease, that the violative development be removed; that a civil fine be paid not to exceed ONE THOUSAND AND NO/100 DOLLARS (\$1,000) per violation; that a civil fine not to exceed FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00) shall be issued if violation not cured within six months of the issuance of the order. The order shall become final thirty (30) days after the date of its mailing or hand-delivery unless written request for a hearing is mailed or delivered to the Planning Department within said thirty (30) days. Upon receipt of a request for a hearing, the Planning Department shall specify a time and place for the permit holder to appear and be heard. The hearing shall be conducted by the Planning Director or the Director's designee in accordance with the provisions of Chapter 91, HRS, as amended.

Report: The County is complying with all conditions.

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Condition 3: That the subject State Land Use Commission Special Permit shall not be transferred without the prior written approval of the Land Use Commission. The appropriate Planning Commission shall make a recommendation to the Land Use Commission. However, in the event that a contested case hearing preceded issuance of said State Land Use Commission Special Permit, a public hearing shall be held by the appropriate Planning Commission upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.

Report: No request for transfer has been made.

Condition 4: That full compliance with all applicable governmental requirements shall be rendered.

Report: The landfill is permitted by DOH and follows the operating criteria of RCRA 40 CFR Part 258 Subpart C—operating criteria and Chapter 58.1 of Title 11, Hawaii Administrative Rules, 11-58.1.1-15—Municipal solid waste landfills—operating criteria.

Condition 5: That the Applicant shall develop the Property in substantial compliance with the representations made to the Land Use Commission in obtaining the State Land Use Commission Special Permit. Failure to so develop the Property may result in the revocation of the permit.

Report: The Property has been developed as proposed to the Land Use Commission.

Condition 6: That the Applicant shall take appropriate mitigative measures to minimize erosion, and prevent cement products, oil, fuel, and other toxic substances associated with the use of heavy machinery from spilling or leaching into the ground.

Report: Landfill equipment is maintained regularly, replaced or repaired when needed; contractor equipment is in good operating condition with no leaking parts. The Spill Prevention and Containment Plan is updated as required for the NPDES Storm Water Pollution Control Plan. Landfill slopes are inspected for erosion and repaired.

Condition 7: That the Applicant shall comply with the Department of Health Ambient Air Quality Standards, Hawaii Administrative Rules, Title 11, Chapter 59 and Air Pollution Control, HAR 11-60.

Report: Dust is controlled by paved roadways around the landfill and with regular spraying by the water truck for the unpaved roadways. Dust from cover soil is controlled by moisture conditioning. Tarp use decreases the use of cover soil which results in less dust. The landfill gas collection system is monitored and maintained regularly. Reporting and notifications to the Department of Health Clean Air Branch and Solid Waste Branch.

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Condition 8: That the Applicant shall comply with the EPA's New Source Performance Standards.

Report: The County continues to monitor the gas wells installed within Phases IV and V and at the closed Phases I and II. Surface emissions measurements are also taken. In addition, perimeter gas monitoring probes at Phases I and II, III, IV and V are sampled and metered. Horizontal collectors at Phase III are monitored. Gas well measurements are compiled in reports submitted to the Hawaii Dept. of Health, Clean Air Branch for review. Perimeter monitoring results are sent to the Hawaii Dept. of Health, Solid Waste Branch. A landfill gas collection system installed in Phases I and II pipes landfill gas to the flare in Phase IV where it is ignited. Design and construction of a gas collection system for Phase IV was funded in FY 2010 for \$2M. Cornerstone was the designer; gas well construction was completed by Goodfellow Bros. in June 2011. This work was part of a settlement agreement with the U.S.E.P.A. which also included a Supplemental Environmental Project that installed wind turbines to produce electricity. Phase V vertical and horizontal wells were installed in FY 2017 and Cornerstone provided compliance and O&M services which they have continued to do currently as Tetrattech BAS. In FY 2022 eight new wells were installed at the top of Phases IV & V.

Condition 9: That the Applicant shall immediately stop work and contact the State Historic Preservation Division, Department of Land and Natural Resources and the Applicant's cultural specialist should any previously unidentified archaeological resources such as artifacts, shell, bone, charcoal deposits, human burial, rock or coral alignments, pavings or wall be encountered during development of the Special Permit area.

Report: No archaeological resources such as artifacts, shell, bone, charcoal deposits, human burial, rock or coral alignments have been discovered during any construction.

Condition 10: That provisions shall be enacted to ensure emergency access to the sanitary landfill in case of fire or any other disaster.

Report: Fire Dept. and Police Dept. are updated on gates for landfill access anytime.

Condition 11: That the Applicant shall timely provide without any prior notice, annual reports to the Land Use Commission and the County of Maui Planning Department in connection with the status of the subject project and Applicant's progress in complying with the conditions imposed herein. The annual report shall also include the capacity remaining in the landfill at the time of submission of the annual report. The annual report shall be submitted in a form prescribed the Executive Officer of the Land Use Commission.

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Report: This annual report is submitted to meet this condition. With the construction of Phase V in 2012, the landfill had capacity to 2020. Construction of Phase V-B Extension in 2019 added 3-years capacity. Phase III-A, built in FY 2021, adds another 3 years. When Phase III-B is built in FY 2024, 10-years total additional capacity will be available.

Condition 12: That the Applicant shall utilize non-drinking water, to the extent possible, for grading, dust control, and irrigation of the landfill.

Report: A non-potable water production well on-site ensures that non-drinking water is used to meet the landfill's operational needs for dust control and grading.

Condition 13: That the Applicant shall reasonably ensure that windblown debris around the perimeter of the landfill, particularly within areas visible from the public right of way, are removed on a daily basis.

Report: Portable litter fences are installed near the working face to catch any litter from refuse trucks as they offload. A permanent, 30-foot litter fence is installed between Phases V-A and V-B and Pulehu Rd. Fencing design and construction monies were included in the FY 2021 budget for the Phase V-B Extension. Netting was replaced on the 1200-foot long existing fence during the extension work in FY 2022.

Condition 14: That full compliance with the requirements of the State's Department of Health for sanitary landfill operation shall be rendered.

Report: Landfill operations comply with the terms and conditions of Permit No. LF-0074-13 issued by the Department of Health and effective to February 23, 2023.

Condition 15: That the Applicant shall file a metes and bounds map and description of the new approximately 96-acre project area with the Land Use Commission and Maui Planning Commission.

Report: The maps and descriptions were included in the application for permit renewal.

Condition 16: That to the extent practicable, leachate generated at the landfill shall be returned to the landfill.

Report: A leachate recirculation plan was submitted to the Dept. of Health in 2013. The plan includes placing pipes in the waste to circulate leachate collected at the sump. Piping and trenching were done by Goodfellow Bros. in 2014 at Phase V-A. In FY 2016 a leachate recirculation system for V-B was constructed by Betsill Brothers including pump installation, controls, and manifold piping as designed by SSFM. The 2019 work by Betsill upgraded the recirculation system by routing leachate from the tank farm to the landfill and adding flow-meters to measure quantities both to and from the landfill.

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Condition 17: That the County of Maui shall review implementation of improvements at the Pulehu Road/Hansen Road intersection as outlined in a Traffic Impact Analysis Report when warranted by the Department of Public Works.

Report: The County Dept. of Public Works has installed a 4-way stop at the Pulehu Road/Hansen Road intersection with a series of traffic calming blocks on both sides of the Pulehu Road approaches. The 4-way stop was operational at the start of FY 2023.

Condition 18: That to minimize impacts on animal species, the Applicant shall implement the following and if applicable consult with the U.S. Fish and Wildlife Service as deemed appropriate for further input on measures to avoid such impacts:

Hawaiian hoary bat: Woody plants greater than 15 feet tall should not be removed or trimmed during the Hawaiian hoary bat breeding season (June 1 to September 15). Additionally, barbed wire should not be used for fencing as part of the proposed action.

Report: No woody plants have been removed or trimmed and no barbed wire has been placed.

Blackburn's sphinx moth: A qualified biologist should survey areas of proposed construction activities for Blackburn's sphinx moth and its host plants prior to initiation during the wettest portion of the year (usually November to April or several weeks after a significant rain) and immediately prior to construction. Any host plants with eggs, larvae and signs of larvae feeding should not be cut or disturbed.

Report: In December 2021 Robert Hobdy did a biological survey of an adjacent parcel and reported the following. "These moths and their larvae were looked for during the survey but not found. But without their specific host plants, none of which were present, there was almost no chance that these moths would be attracted to this project area, and thus no recommendations are necessary."

Hawaiian waterbirds and Hawaiian goose: To minimize adverse impacts such as predation and reduced reproductive success, the project should occur outside of the Hawaiian stilt breeding season (February through August). If the breeding period cannot be avoided, consultation with USFWS is recommended to develop measures to avoid impacts to listed species.

Report: No activity has occurred between February and August on the recently acquired 40-acre parcel.

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Condition 19: Within one year of approval of this Fourth Amendment, the County shall identify County-owned agricultural property of similar land properties and equivalent acreage on Maui and submit a request to have it designated as IAL to compensate for the loss of the 22 acres of IAL associated with the CML Facilities Project.

Report: Acreage at the Kula Agricultural Park has been identified for the IAL designation and was presented to LUC staff on August 6, 2021. This area of IAL designation is intended to act as a “bank” for the County of Maui in the event that future land areas which may be designated as IAL are necessary to remove from IAL in order to provide regional services as determined by future needs of the community and the County’s General Plan. Upon receipt of the transmittal, it was determined by LUC staff that the proposal should be presented to the Maui Planning Commission prior to proceeding further.

Condition 20: Upon restoration of closed phases of the CML and where safe and practicable to do so and if still designated as agriculture at that time, the County shall seek to make such lands available for future appropriate agricultural use in accordance with applicable state and federal guidelines and requirements.

Report: Future agricultural use and designation will be included in any Master Plan for the Central Maui Landfill.

Condition 21: That the Applicant shall submit a petition for Declaratory Ruling to the LUC to withdraw the 22 acres of IAL from the IAL designation within one year of the LUC’s Decision and Order for the Applicant’s Fourth Amendment Request.

Report: On August 6, 2021, CoM-DEM prepared and transmitted a petition for Declaratory Ruling.

Condition 22: That the Applicant shall instruct the construction employees during the pre-construction meeting or similar circumstance of the possibility of discovering funerary objects and burials during construction. Further, should burials be found, the Applicant shall consult with the SHPD and cultural and lineal descendants of the area to develop a reinternment plan and cultural preservation plan for proper cultural protocol, curation, and long-term maintenance.

Report: As a part of the grading permit application process and/or building permit process the Division submits project plans to SHPD for review and approval. No work commences without this approval; additionally, construction employees are informed of proper procedures in case any burials should be discovered.

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Condition 23: That the Applicant shall commence the process to seek a district boundary amendment with the LUC for the approximately 95.659 acres of the total permitted area of the CML within five years of the LUC's Decision and Order for the Applicant's Fourth Amendment Request.

Report: CoM-DEM is in the process of complying with this condition. Two consultants have been contracted with funding authorized in the FY 2023 and FY 2024 budgets for planning and engineering support for the district boundary amendment application and to begin work on the Environmental Impact Statement (EIS). A-Mehr Inc. began work on February 23, 2023 under a \$247,650 contract and Munekiyo Hiraga will begin work when their contract is finalized for \$599,950. This does not include the technical studies to be done by sub-consultants in the areas of traffic, flora and fauna, cultural assessment, archaeology, agricultural impact assessment, air quality and greenhouse gas emissions, noise study, hydrogeological study, and view analysis.

CoM-DEM and the Department of Planning presented the status, goals and requirements of the CML Special Permit and forthcoming DBA to the Maui County Council Infrastructure and Transportation Committee on August 19, 2021.